

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Stanley Kent Harlan Trust,
Petitioner-Appellant,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-25-0728
Parcel No. 16-29-201-006

On July 27, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Stanley Kent Harlan Trust, requested a hearing. Rick Wanamaker of Iowa Realty, West Des Moines, Iowa, was designed as its legal representative and represented it at hearing. The Dallas County Board of Review designated County Attorney Wayne Reisetter as its legal representative. It was represented by Assessor Steve Helm by telephone. Stanley Kent Harlan Trust submitted evidence in support of its position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Stanley Kent Harlan Trust (The Trust), owner of property located at 35098 Burgundy Circle, Waukee, Iowa, appeals from the Dallas County Board of Review decision reassessing its property. According to the property record card, the subject property consists of a two-story dwelling with 5571 total square feet of living area and a 1374 square-foot attached garage with 851 square feet of living quarters above. The dwelling was built in 2001-2002 and is in excellent condition. The property has a 1+20 quality grade factor and 2150 square feet of full walkout basement with finish. The subject property site consists of 1.29 acres of land.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$1,022,380; representing \$97,620 in land value and \$924,760 in improvement value. The Trust protested to the Board of Review on the ground that there had been a change downward in value since the last assessment under Iowa Code sections 441.37(1) and 441.35(3). The Board provided partial relief in the assessment to \$975,000, allocated as follows: \$97,620 in land value and \$877,380 in improvement value.

The Trust filed its appeal with this Board and urged the same ground of downward change in value. The Trust claims \$800,000 is the actual and fair assessment of the subject property. It seeks \$175,000 in relief.

Rick Wanamaker testified on behalf of The Trust that the subject property was costly to build, but cost does not equal market value. He stated the market value is less than the current assessed value. Wanamaker is an experienced realtor and submitted three sales of comparable properties from the Napa Valley and South Fork Subdivisions in Waukegan. In his opinion, based on these sales, the subject property should be assessed at \$777,000. He also submitted the number of sales in the metro area over \$400,000 for the last ten years.

The Board of Review did not submit any new evidence or call any witnesses.

We find Wanamaker to be a credible witness. He provided evidence that may suggest The Trust's property might be over-assessed if this were a regular assessment year. However, the evidence does not demonstrate there has been a downward change in its property's value since the last assessment, which is necessary to prevail in an interim year. In order to show a change in value, both the January 1, 2010, and the January 1, 2009, fair market values must be proved.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

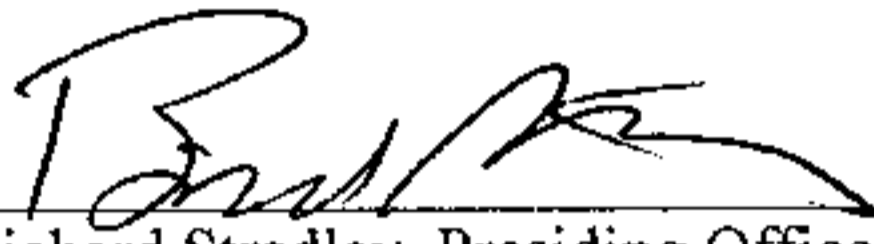
In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). The last unnumbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997) The assessed value cannot be used for this purpose. *Id.* Essentially, it

is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

We find a preponderance of the evidence does not prove there has been a change in value of The Trust's property since the last assessment.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Dallas County Board of Review is affirmed.

Dated this 17 day of August 2011.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-17</u> , 2011.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	